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Thursday, April 26, 2001  
UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

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In re

ROBERT E. WILKINS,

No. 00-12665

[Debtor](#)  (s).

### **Memorandum of Decision**

[Chapter 13](#)  debtor Robert Wilkins has no current income, but he does not need one. His wife is the beneficiary of a trust with approximately \$1.5 million in assets, and Wilkins is a [trustee](#)  of that trust. He and his wife are building an expensive new home. The issue before the court is whether it should confirm his [plan](#)  calling for payments of \$100 per month for 36 months, with the funds coming from his wife's trust. In other words, Wilkins wants to use his wife's money to buy a Chapter 13 [discharge](#)  for \$3,600.00. Wilkins' goal is to avoid state court litigation with a [creditor](#) . Needless to say, this small sum would pay only a very nominal dividend to creditors. The trustee argues that Wilkins is not eligible to be a Chapter 13 debtor because he has no regular income and therefore does not meet the requirements of § 109(e) of the [Bankruptcy Code](#) . The court is reluctant to rule that gifts

from a relative can never be considered income, as to make such a blanket rule would make many debtors ineligible for Chapter 13 relief which may be the only way to avoid loss of a home or deal with tax problems. The court does not need to rule on this issue, however, because it finds that the plan is filed in bad faith. Wilkins filed his plan solely to avoid the costs of litigation with a creditor in state court. He has no intent to do right by his creditors. He enjoys a nice standard of living due to his wife's trust. Regardless of legal niceties, the assets of the trust are clearly available to him for the things he wants, like a new home.<sup>(1)</sup> The amount he proposes to pay into the plan is arbitrary, minimal, and, to his creditor, meaningless. All of this, the court concludes, amounts to bad faith. Accordingly, the Trustee's objection to [confirmation](#) of the plan will be sustained and this Chapter 13 case will be dismissed. The Trustee shall submit an appropriate form of order. Dated: April 26, 2001

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Alan Jaroslovsky

U.S. [Bankruptcy Judge](#)

1. In a mistaken display of honesty, Wilkins testified that "we" are building a new home when, in furtherance of his minuscule plan, he meant to say

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